

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1012

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
2 human services; to provide for the transfer of appropriations between agencies and institutions;
3 to create and enact a new subsection to section 50-06-05.4 and section 50-06-14.4 of the North
4 Dakota Century Code, relating to the human service council duties and to projects involving
5 services for the alzheimer's and related dementia population; to provide an exemption from
6 sections 54-14-03.1 and 54-44.1-11 and to authorize the sale of certain buildings on the
7 grounds of the state hospital to the department of corrections and rehabilitation; to amend and
8 reenact sections 50-06-05.5, 50-06-14.3, and 50-24.1-02.2 of the North Dakota Century Code
9 and to amend and reenact the new section to chapter 23-09.3 as created by section 2 of
10 chapter 254 of the 1995 Session Laws and the new section to chapter 23-16 to the North
11 Dakota Century Code as created by section 3 of chapter 254 of the 1995 Session Laws,
12 relating to the human service center directors, state basic care program, a moratorium on
13 long-term care bed capacity, and community resource allowance; to repeal section 25-04-20 of
14 the North Dakota Century Code, relating to the westwood park assets management committee;
15 to provide an effective date; and to declare an emergency.

16 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

17 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
18 funds as may be necessary, are hereby appropriated out of any moneys in the general fund in
19 the state treasury, not otherwise appropriated, and from special funds derived from federal
20 funds and other income, to the department of human services and its various divisions, for the
21 purpose of defraying their expenses, for the biennium beginning July 1, 1997, and ending
22 June 30, 1999, as follows:

23 Subdivision 1.

24 MANAGEMENT AND COUNCILS

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1	Salaries and wages	\$ 8,670,509
2	Operating expenses	6,831,453
3	Equipment	25,564
4	Grants	715,477
5	Loan fund - DD	<u>1,840,956</u>
6	Total all funds	\$ 18,083,959
7	Less estimated income	<u>12,162,731</u>
8	Total general fund appropriation	\$ 5,921,228

9 Subdivision 2.

10 ECONOMIC ASSISTANCE

11	Salaries and wages	\$ 8,841,828
12	Operating expenses	18,141,716
13	Equipment	1,000
14	Capital improvements	2,543
15	Welfare reform contingency	500,000
16	Grants - developmental disabilities direct staff supplement	4,300,000
17	Grants - assistance payments	187,940,292
18	Grants - medical assistance	<u>606,723,360</u>
19	Total all funds	\$ 826,450,739
20	Less estimated income	<u>636,150,543</u>
21	Total general fund appropriation	\$ 190,300,196

22 Subdivision 3.

23 PROGRAM AND POLICY

24	Salaries and wages	\$ 9,350,702
25	Operating expenses	10,987,311
26	Equipment	129,065
27	Capital improvements	1,619
28	Grants	<u>100,266,694</u>
29	Total all funds	\$ 120,735,391
30	Less estimated income	<u>85,402,836</u>
31	Total general fund appropriation	\$ 35,332,555

1	Subdivision 4.		
2		NORTHWEST HUMAN SERVICE CENTER	
3	Total all funds		\$ 7,486,057
4	Less estimated income		<u>3,741,452</u>
5	Total general fund appropriation		\$ 3,744,605
6		NORTH CENTRAL HUMAN SERVICE CENTER	
7	Total all funds		\$ 12,252,822
8	Less estimated income		<u>6,494,751</u>
9	Total general fund appropriation		\$ 5,758,071
10		LAKE REGION HUMAN SERVICE CENTER	
11	Total all funds		\$ 7,012,831
12	Less estimated income		<u>3,193,069</u>
13	Total general fund appropriation		\$ 3,819,762
14		NORTHEAST HUMAN SERVICE CENTER	
15	Total all funds		\$ 15,378,846
16	Less estimated income		<u>8,365,365</u>
17	Total general fund appropriation		\$ 7,013,481
18		SOUTHEAST HUMAN SERVICE CENTER	
19	Total all funds		\$ 16,404,559
20	Less estimated income		<u>9,781,486</u>
21	Total general fund appropriation		\$ 6,623,073
22		SOUTH CENTRAL HUMAN SERVICE CENTER	
23	Total all funds		\$ 9,022,191
24	Less estimated income		<u>4,338,947</u>
25	Total general fund appropriation		\$ 4,683,244
26		WEST CENTRAL HUMAN SERVICE CENTER	
27	Total all funds		\$ 14,479,280
28	Less estimated income		<u>7,895,864</u>
29	Total general fund appropriation		\$ 6,583,416
30		BADLANDS HUMAN SERVICE CENTER	

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1	Total all funds	\$ 7,959,369
2	Less estimated income	<u>3,821,558</u>
3	Total general fund appropriation	\$ 4,137,811
4	STATE HOSPITAL	
5	Operations	\$ 52,338,902
6	Capital improvements	<u>1,901,400</u>
7	Total all funds	\$ 54,240,302
8	Less estimated income	<u>18,566,061</u>
9	Total general fund appropriation	\$ 35,674,241
10	DEVELOPMENTAL CENTER	
11	Operations	\$ 38,824,692
12	Capital improvements	<u>262,000</u>
13	Total all funds	\$ 39,086,692
14	Less estimated income	<u>30,132,445</u>
15	Total general fund appropriation	\$ 8,954,247
16	FIELD SERVICES	
17	Supplemental fund for mental health services	\$ 1,143,279
18	Supplemental fund for developmental disabilities services	<u>181,609</u>
19	Total general fund appropriation	\$ 1,324,888
20	Total all funds - subdivision 4	\$ 184,647,837
21	Total estimated income - subdivision 4	\$ 96,330,998
22	Total general fund appropriation - subdivision 4	\$ 88,316,839
23	Subdivision 5.	
24	COMPUTER TECHNOLOGY APPROPRIATION	
25	Total all funds	\$ 32,263,866
26	Less estimated income	<u>19,263,866</u>
27	Total general fund appropriation	\$ 13,000,000
28	Grand total general fund appropriation H.B. 1012	\$ 332,870,818
29	Grand total special fund appropriation H.B. 1012	\$ 849,310,974
30	Grand total all funds H.B. 1012	\$1,182,181,792

1 **SECTION 2. LANDS AND MINERALS TRUST FUND.** The amount of \$1,840,956, or
2 so much of the sum as may be necessary, as appropriated in the developmentally disabled
3 facility loan fund line item in section 1 of this Act, may be expended by the department of
4 human services from the lands and minerals trust fund for the purpose of making payments of
5 principal and interest to the common schools trust fund on any loans made from it pursuant to
6 the developmentally disabled loan fund program nos. 2 and 3 for the biennium beginning
7 July 1, 1997, and ending June 30, 1999.

8 **SECTION 3. DEVELOPMENTAL DISABILITIES REVOLVING LOAN FUND.** There
9 may be expended by the department of human services, on or before June 1, 1999, from the
10 cash balance of, and any payments deposited in, the revolving loan fund created under section
11 6-09.6-01, the sum of \$1,183,748, or so much of the sum as may be necessary, which is
12 appropriated in section 1 of this Act.

13 **SECTION 4. TRANSFER.** Subject to the provisions of chapter 54-16, the director of
14 the department of human services may transfer appropriation authority between agencies and
15 institutions included in subdivisions 1 through 5 of section 1 of this Act.

16 **SECTION 5. CORRELATION OF RESOURCES FOR DEPARTMENTAL CLIENTS.**
17 Notwithstanding section 4 of this Act, the director of the department of human services may
18 transfer appropriation authority and authorized positions between agencies and institutions
19 included within subdivision 4 of section 1 of this Act to correlate fiscal and staff resources with
20 the flow of institutional residents and human service center clients between community-based
21 programs and institutions. To the extent permitted by law, the department of human services
22 shall structure the financing arrangements between the state and counties so as to relieve
23 county social service boards of fiscal responsibility for grants to and for recipients in the
24 temporary assistance for needy families program in exchange for increased county
25 responsibility for financing the local cost of administering the program.

26 **SECTION 6. SUPPLEMENTAL FUND FOR MENTAL HEALTH SERVICES.** The
27 funds appropriated in the supplemental fund for the mental health services line item in section 1
28 of this Act may be allocated by the department of human services, subject to budget section
29 approval, to the human services centers and state hospital to address costs associated with
30 deinstitutionalization, caseload increases, patient stays, or other unanticipated costs associated
31 with serving persons with a mental illness, for the biennium beginning July 1, 1997, and ending

June 30, 1999. The department of human services shall inform the budget section of requests for funding that the department does not recommend to the budget section for approval.

SECTION 7. SUPPLEMENTAL FUND FOR DEVELOPMENTAL DISABILITIES

SERVICES. The funds appropriated in the supplemental fund for developmental disabilities services line item in section 1 of this Act may be allocated by the department of human services, subject to budget section approval, to the human service centers and developmental center to address costs associated with deinstitutionalization, caseload increases, patient stays, or other unanticipated costs associated with serving persons with a developmental disability, for the biennium beginning July 1, 1997, and ending June 30, 1999. The department of human services shall inform the budget section of requests for funding that the department does not recommend to the budget section for approval.

SECTION 8. LEGISLATIVE INTENT - HUMAN SERVICE CENTER SERVICES. It is the intent of the legislative assembly that while the legislative assembly is allowing the human service centers more funding flexibility during the 1997-99 biennium, the human service centers are expected to:

1. Continue to utilize standards, guidelines, and practices in effect on March 1, 1997, for providing human services pursuant to subsection 2 of section 50-06-05.3.
2. Continue to strive toward improving the quality of services and monitor and strive to achieve successful client outcomes.
3. Maximize available federal or other funds to provide essential services and for service enhancements.
4. Provide appropriate community services to continue the trend of fewer state hospital and developmental center admissions in order to serve clients, to the extent possible, in a least restrictive environment.
5. Utilize innovative and effective methods of service delivery in order to achieve cost savings to reallocate for performance incentives and to enhance the level of services provided to clients.

SECTION 9. LEGISLATIVE INTENT - FULL-TIME EQUIVALENT EMPLOYEES - EMERGENCY COMMISSION APPROVAL. It is the intent of the legislative assembly that the emergency commission approve requests submitted by a human service center, the state hospital, or the developmental center for authorization to hire additional full-time equivalent

positions that are associated with an approved request for funding from the supplemental fund for mental health services or the supplemental fund for developmental disabilities services during the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 10. HUMAN SERVICE CENTER SERVICE COSTS - REIMBURSEMENT

SYSTEM. Each regional human service center shall report its services provided during the biennium beginning July 1, 1997, and ending June 30, 1999, on a cost per service basis in a form designated by the executive director of the department of human services. The department shall analyze the data collected and develop, for the 1999-2001 biennium, a standardized reimbursement system for the human service centers based on service costs and any supplemental payment costs to be incorporated into the department's 1999-2001 biennium budget request.

SECTION 11. EXEMPTION - EMPLOYEE BONUSES. Notwithstanding section

54-14-03.1, the regional human service centers, state hospital, and developmental center may provide bonus payments to their employees during August 1999, of up to three percent of an employee's base salary from any realized savings resulting from program efficiencies accumulated during the 1997-99 biennium, excluding any supplemental funds for mental health or developmental disabilities services received. A bonus payment may not increase an employee's salary level for which funding request calculations for the 1999-2001 biennium will be based.

SECTION 12. EXEMPTION - BUDGET SECTION APPROVAL AND REPORT. The

general fund appropriations contained in subdivision 4 of section 1 and the welfare reform contingency line item in subdivision 2 of this Act are not subject to section 54-44.1-11. The welfare reform contingency may only be spent with prior budget section approval. Any unexpended funds from these appropriations are available during the biennium beginning July 1, 1999, and ending June 30, 2001. The department of human services shall report to the budget section of the legislative council on the status of these appropriations at its fall 1999 meeting.

SECTION 13. A new subsection to section 50-06-05.4 of the North Dakota Century

Code is created and enacted as follows:

1 To set the salary of the center director and approve the employee compensation
2 plan. The department of human services shall develop procedures that provide for
3 a transition to regional center governing boards to be established on July 1, 1998.

4 **SECTION 14. AMENDMENT.** Section 50-06-05.5 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **50-06-05.5. Director of regional center - Medical director.** Each regional human
7 service center must be headed by a regional director appointed by the executive director of the
8 department in consultation with the regional human service council. The regional director ~~must~~
9 ~~be accountable to~~ position is not a classified position and the director must serve at the
10 pleasure of the executive director. Each regional director shall have the authority to employ the
11 staff necessary to discharge the center's responsibilities. The regional director shall also have
12 authority, subject to the approval of the executive director of the department and within the limit
13 of legislative appropriations, to make contractual arrangements with public or private agencies
14 or with individuals and organizations to discharge the regional human service center's service
15 delivery responsibilities. The staff of each regional human service center shall include a
16 qualified medical professional who must be designated as the medical director of the center.
17 The medical director must be primarily responsible for coordinating mental health and medically
18 related services. The medical director's position may be part time or full time as determined
19 appropriate by the regional director, with the concurrence of the executive director. At the
20 discretion of the executive director, the regional director of a center, if qualified therefor, could
21 also be appointed medical director of that center. As used in this section, "qualified medical
22 professional" means an individual possessing a degree of doctor of psychiatry, when such an
23 individual can be employed, and when this is not possible, an individual possessing at least a
24 medical degree.

25 **SECTION 15. AMENDMENT.** Section 50-06-14.3 of the 1995 Supplement to the North
26 Dakota Century Code is amended and reenacted as follows:

27 **50-06-14.3. Department of human services to develop basic care facility**
28 **ratesetting methodology.** The department of human services shall develop a ratesetting
29 methodology that provides for rates for all residents of basic care facilities that receive
30 payments from the state or any political subdivision. The methodology may not provide for
31 different rates for similarly situated residents because of the source of payment for any

1 resident's care. The department shall consult with representatives of the basic care industry in
2 this state in developing the ratesetting methodology. Beginning July 1, ~~4997~~ 1999, the
3 department shall establish rates for all residents of basic care facilities that receive payments
4 from the state or any political subdivision in accordance with the ratesetting methodology
5 developed by the department. After June 30, ~~4997~~ 1999, no agency of the state or any political
6 subdivision may make payments to a basic care facility that does not set rates at the levels
7 established by the department.

8 **SECTION 16.** Section 50-06-14.4 of the North Dakota Century Code is created and
9 enacted as follows:

10 **50-06-14.4. Alzheimer's and related dementia projects.** The department of human
11 services shall establish projects containing up to ten beds designed to meet the service needs
12 of the alzheimer's and related dementia population. The projects established under this section
13 must explore the financial and service viability of converting existing nursing facility or basic
14 care capacity to a specific service environment that targets the alzheimer's and related
15 dementia population. The state department of health shall cooperate with the department to
16 ensure the success of the projects. The projects may be established notwithstanding
17 subsections 2, 5, 10, and 11 and subdivision c of subsection 9 of section 50-24.5-01, relating to
18 definitions for aid to aged, blind, and disabled persons, and subsection 1 of section 23-09.3-01,
19 relating to the definition of a basic care facility.

20 **SECTION 17. AMENDMENT.** Section 50-24.1-02.2 of the 1995 Supplement to the
21 North Dakota Century Code is amended and reenacted as follows:

22 **50-24.1-02.2. Community spouse resource allowance.** In determining eligibility for
23 medical assistance applicants and recipients, the department of human services shall establish
24 a community spouse resource allowance equal to the maximum community spouse resource
25 allowance as provided by 42 U.S.C. 1396r-5(f)(2). This section applies to a community spouse
26 of an institutionalized spouse. For purposes of this section, "institutionalized spouse" includes
27 an individual who is described in 42 U.S.C. 1396a(a)(10)(A)(ii)(VI).

28 **SECTION 18. AMENDMENT.** The new section to chapter 23-09.3 of the North Dakota
29 Century Code as created by section 2 of chapter 254 of the 1995 Session Laws is amended
30 and reenacted as follows:

1 **Moratorium on expansion of basic care bed capacity.** ~~During the period after~~
2 ~~July 31, 1995, and before August 1, 1997, Except when existing beds are converted for use by~~
3 ~~the alzheimer's and related dementia population under the projects provided for in section~~
4 ~~50-06-14.4, the state department of health and consolidated laboratories may not issue a~~
5 ~~license under this chapter for any additional bed capacity unless the expanded bed capacity~~
6 ~~was approved by the health council under chapter 23-17.2 before August 1, 1995 above the~~
7 ~~state's gross capacity of one thousand four hundred seventy-one beds during the period~~
8 ~~between August 1, 1997, and July 31, 1999.~~

9 **SECTION 19. AMENDMENT.** The new section to chapter 23-16 of the North Dakota
10 Century Code as created by section 3 of chapter 254 of the 1995 Session Laws is amended
11 and reenacted as follows:

12 **Moratorium on expansion of long-term care bed capacity.** Notwithstanding sections
13 23-16-06 and 23-16-10, ~~during the period after July 31, 1995, and before August 1, 1997~~
14 ~~except when existing beds are converted for use by the alzheimer's and related dementia~~
15 ~~population under the projects provided for in section 50-06-14.4, the state department of health~~
16 ~~and consolidated laboratories may not issue a license for any additional bed capacity unless~~
17 ~~the expanded bed capacity was approved by the health council under chapter 23-17.2 before~~
18 ~~August 1, 1995 above the state's gross capacity of seven thousand one hundred twenty-four~~
19 ~~beds during the period between August 1, 1997, and July 31, 1999.~~

20 **SECTION 20. TRANSFER OF LAND AUTHORIZED.**

- 21 1. The department of human services may sell to the department of corrections and
22 rehabilitation the forensic unit building, the ET building and adjacent gymnasium,
23 and surrounding real property.
- 24 2. The authorized sale is exempt from sections 54-01-05.2 and 54-01-05.5.

25 **SECTION 21. EXEMPTION FROM BIDDING REQUIREMENTS.** Notwithstanding any
26 other provision of law relating to public contracts or bidding requirements, the department of
27 human services may contract and expend funds for the renovation of the state hospital to
28 accommodate patients as a result of any sale of the property described in section 20 of this Act.

29 **SECTION 22. COMPUTER OPERATING AND DEVELOPMENT COSTS - BUDGET**
30 **SECTION REPORTING.** The department of human services shall allocate to the various
31 divisions the appropriation contained in subdivision 5 of section 1 of this Act for computer

operating and development costs subject to budget section approval. The department, as it develops the reforming and enhancing services for the people of North Dakota (RESPOND) computer system, shall periodically report to the budget section of the legislative council during the 1997-99 biennium on the status of the development of the system, system costs and benefits, and the receipt of the matching federal funds. The department may not spend general fund appropriations made by the fifty-fifth legislative assembly for the RESPOND computer system unless approval for the matching federal funds in the amounts estimated during the fifty-fifth legislative assembly has been received from the appropriate federal agency.

Except as may be waived by approval of the budget section of the legislative council, the department of human services shall meet the requirements provided by the administration for children and families of the United States department of health and human services in its communication dated February 12, 1997, related to the state's development of the reforming and enhancing services for the people of North Dakota (RESPOND) and training, education, employment, and management (TEEM) project. The requirements include information regarding client eligibility and expert system rules, cost benefit analysis for the TEEM and RESPOND projects, and a revised budget for the TEEM and RESPOND projects.

SECTION 23. LEGISLATIVE INTENT - COMPUTER DEVELOPMENT. It is the intent of the legislative assembly that the department of human services not enter into contracts for computer development that require the expenditure of funds in future bienniums without the prior approval of the legislative assembly. It is also the intent of the legislative assembly that the department of human services not make interest payments on computer development contracts in the amount of \$632,450 during the 1997-99 biennium that were not authorized by the legislative assembly.

SECTION 24. LEGISLATIVE INTENT - CASE MANAGEMENT - PILOT PROJECTS. It is the intent of the legislative assembly that the department of human services establish pilot projects for expanded long-term care case management to assist functionally impaired adults in accessing necessary services to maintain the appropriate level of independence in the least restrictive setting at the lowest possible cost and that these pilot projects be financed within available department resources.

SECTION 25. LEGISLATIVE INTENT - TRANSITIONAL SERVICES - DEVELOPMENTALLY DISABLED STUDENTS. It is the intent of the legislative assembly that

1 the disability services division of the department of human services, the office of special
2 education of the department of public instruction, and local special education units explore
3 opportunities for collaboration and shared funding in the provision of transition services to
4 developmentally disabled students between the ages of eighteen and twenty-one.

5 **SECTION 26. LEGISLATIVE INTENT - WAGE INCREASES FOR LOW-INCOME**
6 **DIRECT CONTACT STAFF OF COMMUNITY DEVELOPMENTAL DISABILITIES PROVIDER**
7 **AGENCIES.** In addition to any wage increases for direct contact staff financed out of the
8 annual inflationary adjustments contained in subdivision 2 of section 1 of this Act, it is the intent
9 of the legislative assembly that community developmental disabilities provider agencies attempt
10 to mitigate staff turnover during the 1997-99 biennium by augmenting the wages of low-income
11 direct contact staff with \$4,300,000 appropriated within subdivision 2 of section 1 of this Act and
12 allocated by the department of human services for such purpose. Each provider agency shall
13 inform the department of human services of the hourly wages it pays to each direct contact staff
14 before and after applying the augmenting funds. The department shall compile and report that
15 information to the budget section. "Low-income direct contact staff" means, for purposes of the
16 department's ratesetting process, positions with departmentally approved hourly wage funding,
17 in effect on July 1, 1996, for residential services, in each residence, of \$8.71 for the first
18 full-time equivalent, \$7.66 for the second full-time equivalent, and \$6.26 for any remaining
19 full-time equivalents except standby staff; and for day service staff, individualized supported
20 living arrangement staff, and family support services staff, \$6.73 for each full-time equivalent.

21 **SECTION 27. LEGISLATIVE INTENT - WAGE INCREASES FOR CERTIFIED**
22 **NURSE AIDE STAFF - NURSING HOME.** It is the intent of the legislative assembly that
23 annual inflationary adjustments contained in subdivision 2 of section 1 of this Act for nursing
24 home reimbursement be used by nursing homes to emphasize reducing certified nurse aide
25 staff turnover by adjusting staff wages.

26 **SECTION 28. REPEAL.** Section 25-04-20 of the North Dakota Century Code is
27 repealed.

28 **SECTION 29. EFFECTIVE DATE.** Section 13 of this Act becomes effective on July 1,
29 1998.

30 **SECTION 30. EMERGENCY.** The appropriation contained in subdivision 4 of section 1
31 of this Act for the state hospital includes \$1,295,000 of other funds for remodeling of state

- 1 hospital buildings to accommodate the relocation of patients from buildings to be sold to the
- 2 department of corrections and rehabilitation, which is declared to be an emergency measure
- 3 and those funds are available immediately upon filing of this Act with the secretary of state.
- 4 Sections 16, 18, 20, and 21 of this Act are declared to be an emergency measure.